

# **State of Alaska FY2003 Governor's Operating Budget**

**Department of Law**

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**Department Mission**

The mission of the Department of Law is to provide legal services to state government and to prosecute crime.

**Department Goals and Strategies**

**CRIMINAL DIVISION:**

**PROTECT THE PUBLIC THROUGH EFFECTIVE PROSECUTION SERVICES.**

- Assist law enforcement agencies with criminal investigations by providing legal and tactical advice.
- Serve as legal advisor to grand juries and represent the state in all phases of criminal trial and appellate proceedings.
- Effectively prosecute domestic violence and crimes against children.
- Effectively prosecute those who drive while under the influence of alcohol or drugs.
- Reduce the number of alcohol-related offenses through the prosecution of those who import alcohol into dry communities.
- Reduce fraud in benefit programs.

**CIVIL DIVISION:**

**PROVIDE EFFECTIVE LEGAL ADVICE AND REPRESENTATION OF THE STATE.**

- Protect Alaska's children and youth by handling child abuse, neglect, and delinquency cases expeditiously.
- Ensure the state receives its correct share of oil and gas taxes and royalties; clarify and improve the rules governing taxpayers to reduce disputes and litigation.
- Resolve questions of state versus federal control and management of natural resources, lands, and waters.
- Increase collections of money owed the state by businesses and individuals for child support, fines, loans, and other unpaid obligations.
- Collect judgments for victim restitution and make payments to victims of crimes.
- Ensure that the department's legal review of regulations projects continues to be efficient, timely, and responsive to the needs of agencies and the public.

**Key Department Issues for FY2002 – 2003**

**CRIMINAL DIVISION:**

**MAINTAIN FOCUS ON PROSECUTION OF FAMILY VIOLENCE**

The Knowles Administration has changed the way domestic violence and child abuse are handled by the police, the

courts, and the agencies that are responsible for the welfare of children. Studies and experience have shown that children in homes where there is domestic violence by an adult are often victims of abuse and neglect. Studies have also shown that the children suffer emotionally by witnessing the domestic violence. These cases are often difficult to prosecute because pressure is brought to bear on victims to recant. Moreover, testifying in court can be traumatic for child victims of abuse and neglect. Because prosecution of these offenses is important for the safety of victims, the Criminal Division policy is to prosecute if there is sufficient evidence to convict, even when the victim is unable to testify or does not want the offender prosecuted.

#### INCREASED DRUG AND ALCOHOL PROSECUTION

The Criminal Division has participated in planning projects for drug courts, therapeutic courts, mental health courts, and other special programs with the court system, law enforcement, the Public Defender Agency, and the Department of Corrections.

Everyone recognizes that alcohol is at the root of a number of serious social problems in Alaska. The correlation between alcohol and crime is significant, and alcohol is implicated in an extremely high percentage of criminal and accidental deaths and injuries. In addition, many children are born with FAS or FAE because their mothers consumed alcohol during pregnancy. Experience has shown that the rate of crime can be decreased if alcohol availability is decreased. State law gives municipalities the option of banning or limiting alcohol in their communities, and many villages have voted for that local option. In areas that go completely dry (by banning possession of alcohol), the level of crime falls immediately and significantly, until bootleggers start to return alcohol to the region. Enforcement of local option laws is difficult, but the Criminal Division is actively working with the Alaska State Troopers and federal authorities to deal more aggressively with bootlegging, by increasing our alcohol interdiction efforts through the addition of prosecutors specifically assigned to those cases. Federal funds provided through an Reimbursable Service Agreement with the Department of Public Safety funds a FY 2002 increased level of funding for heightened efforts in the area of alcohol interdiction. The future of this funding source is uncertain at this time.

#### CIVIL DIVISION:

##### CHILD PROTECTION

Child protection workloads continue to be of concern to the department. Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system, and when certain actions must occur, and they define parental responsibility more concretely. These changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly. The accelerated schedules severely impact attorney workloads. Maintenance of our existing resources for child protection is absolutely critical in order for us to effectively manage this important responsibility. In FY 2002, for example, we had to cut half of an attorney position in the Human Services component due to a reduction in the Balloon Project funding received by DHSS. This cut has had a direct impact on the Anchorage Human Services section, resulting in an increase in the per attorney caseload. Another key issue for this component is the need for paraprofessional support to assist our Fairbanks Human Services section.

##### VICTIM RESTITUTION

A key issue for the Collections and Support section in FY 2002 – 2003 is the adoption and implementation of new regulations and procedures for the collection of restitution awarded to victims in criminal and juvenile delinquency proceedings in Alaska. Effective January 1, 2002, the collections unit will begin collecting restitution on behalf of victims in criminal and juvenile delinquency proceedings.

##### CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

Alaska is a target state for many types of consumer fraud, among them telemarketing, prizes and sweepstakes, deceptive home business opportunity sales, automobile sales and service, and a variety of retail sales and services. Under the terms of the Alaska Consumer Protection Act, the Attorney General's office is authorized to investigate and bring enforcement action against businesses that engage in unfair or deceptive trade practices. Because of current funding levels, enforcement activities are directed to situations affecting a large number of consumers or involving large dollar amounts, and often there are not enough resources for those cases. However, we have been able to increase enforcement activity because of additional statutory designated program receipt resources appropriated to the civil division in FY 2000. Using existing resources, the division refined and expanded its consumer protection web page that

is assisting consumers in identifying and protecting against consumer fraud. The division will continue to take appropriate steps to ensure receipt of SDPR on a regular basis in FY 2003 to help fund the consumer protection and antitrust enforcement program.

## Major Department Accomplishments in 2001

### CRIMINAL DIVISION:

- The Criminal Division successfully led the effort that gained the State an additional \$1.4 million in federal funds for the Alcohol Interdiction project. The intent of the proposal is to significantly reduce violent crime, accidental deaths and incidence of FAS and FAE by cutting off the easy availability of alcohol through aggressive investigation and prosecution of bootlegging offenses. Of the \$1.4 million, \$500,000 funds the prosecution effort and commences in FY 2002.
- The Criminal Division continues in the effort to assist victims and witnesses by better informing and preparing them to testify, especially in cases involving sex crimes and domestic violence, and by providing them with important safety plans and informing them of their rights. This project also involves training for attorneys and paralegals to assist them in their efforts to reduce the incidence of these types of crimes. At the grassroots level, the Volunteer Legal Advocacy program, trains volunteers in Alaskan communities and villages to coordinate with domestic violence prosecution efforts. Both aspects of this heightened effort are funded by federal funds RSA'd to the Criminal Division by the Department of Public Safety, Council on Domestic Violence and Sexual Assault.
- The Criminal Division's Medicaid Fraud unit collected more than \$2.5 million in Medicaid fines during FY 2001, an increase of approximately \$1.5 million over FY 2000. In addition to straight fraud cases, the unit prosecutes offenders who commit other crimes while defrauding Medicaid. The most notable example is the case of a Fairbanks doctor who was convicted of 73 felony offenses. The conduct underlying the charges involved sexual assault and abuse of female patients, stealing money from the Alaska Medicaid Fund by submitting false billings for patient services, and issuing dozens of prescriptions without a legitimate medical necessity.
- Additional accomplishments for the Criminal Division are shown in the Performance Measures section of the budget, at the BRU level.

### CIVIL DIVISION:

- Child Protection: The Civil Division continued its participation in the interagency Balloon Project to reduce the backlog of children in foster care longer than new state and federal laws permit. As of September 15, 2001, 89 percent of the 662 children in foster care the longest were in a permanent placement, and in another 8 percent of the cases, the legal work to free these children for adoption is complete. The project now has five phases including more than 1,600 children, of whom 72 percent now have permanent homes, and another 14 percent are legally free for adoption.
- Collections: The division collected over \$3.9 million in FY 2001 in criminal fines, cost of appointed counsel, cost of imprisonment, and civil judgments owed the state. This was a record amount, surpassing the prior year's collections by more than \$1 million.
- Governmental Affairs: Successfully concluded a mediation with the Bank of America in which the bank agreed to pay the state and affected agencies and municipalities a total of \$35.6 million in compensation for mismanagement of public funds held in trust.
- Environmental: Recovered almost \$2 million for state costs and penalties related to contaminated sites, obtained cleanup agreements with polluters with an estimated value of over \$500,000, and recovered approximately \$3,886,000 for EXXON VALDEZ oil spill related matters.
- Alaska Native Law Developments: Continued clarification of the relationship between Alaska Natives and the state, in particular, the law concerning tribal recognition and the scope of tribal jurisdiction and authority following the Venetie decision which held that ANCSA lands are not Indian country.

- Oil and Gas: Continued work on litigation involving oil and gas, bringing into the state treasury approximately \$80.5 million in back taxes and royalties owed by oil and gas companies. Also, successfully defended at hearing the Department of Revenue's \$3 billion property tax assessment of the Trans Alaska Pipeline.
- Consumer Protection and Antitrust Enforcement: Successfully resolved a number of significant consumer protection cases involving payment of several hundred thousand dollars to the state and restitution to consumers.
- Roadless Litigation: Filed a major lawsuit in federal court challenging the Forest Service's Roadless Rule.
- Submerged Lands: Began hearings before the Special Master appointed by the United States Supreme Court in the state's original action in the Supreme Court to quiet title to all lands underlying marine waters in Southeast Alaska, including those within Glacier Bay National Park and the Tongass National Forest.

## Governor's Key Department-wide Performance Measures for FY2003

### Measure:

Percentage of other child abuse and neglect cases that are resolved within the statutory deadline of no more than 21 months of out-of-home placement;  
Sec 96 (b) (7) Ch 90 SLA 2001(HB 250)

### Alaska's Target & Progress:

(2) New statutory deadlines for legal action in child abuse and neglect cases became effective on September 14, 1998; thus the department looked at 164 children's cases opened in October and November of that year as the benchmark. Of 164, 91 percent had the required legal action taken in their cases within 21 months, and in 2 percent, the required legal action took between 21 and 23 months to complete. Seven percent are still pending. This year the department looked at 116 children's cases opened in December 1998 and January 1999. Of those cases, 83 percent had the required legal action taken within 21 months of the child's entry into foster care. In 13 percent of the cases, the required legal action took more than 21 months, and 4 percent of the cases are still pending.

### Background and Strategies:

With the passage of Ch. 99, SLA 98, the new state child protection law and the new federal Adoption and Safe Families Act, important changes were made as to how long children may remain in the child protection legal system, and when certain actions must occur. These new statutory changes at the state and federal level more concretely define parental responsibility and the changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly. The large number of cases placed on the accelerated schedules when the legislation became effective severely impacted attorney workloads.

### Measure:

Monetary value of the criminal and civil judgments collected, including indigent defense costs, costs of incarceration for offenders convicted of driving while intoxicated, and other fines and costs owed to the state and the number of civil and criminal judgments satisfied in full;  
Sec 96 (b) (3) Ch 90 SLA 2001(HB 250)

### Alaska's Target & Progress:

	Amount Collected	Judgments Satisfied
FY 1997	\$2,278,500	Not available
FY 1998	\$2,469,900	8,569
FY 1999	\$3,111,000	10,125
FY 2000	\$2,769,600	8,805
FY 2001	\$3,993,590	15,981

In the FY 2002 Governor's budget, it was anticipated that FY 2001 collections would be unusually high. As predicted, one of the reasons for the high dollar amount and number of collections related to catching up on a backlog that had built up due to staffing vacancy. Additionally, implementation of the unit's new EXCEL database allowed the capturing

of two years of minor offense fines and related court and collection costs that had previously been uncollectable because there was no way to track and match them for the PFD attachment. The unit oversees 81,565 unpaid judgments at this time.

**Background and Strategies:**

The function of the collections unit is to collect money owed to the state in criminal, civil, and some administrative cases. The criminal cases include the cost of imprisonment in driving while intoxicated or refusal cases, cost of appointed counsel in cases where a public defender or public advocate appointment is made to represent a defendant, and outstanding fines and bond forfeitures. While the courts can collect on fines and bond forfeitures (these cases are only transferred to the collections unit if they are overdue to the court) the cost of appointed counsel cases are automatically transferred to the unit. Civil case collections must have a judgment in excess of \$250 entered with the court and the money collected must be free for deposit into the general fund.

There are a number of factors that affect the amount collected. The most important factor is the amount and number of judgments transferred by the courts. If a judgment is not transferred, it is unlikely the unit will receive voluntary payments and cannot seize money from a permanent fund dividend. The second factor is the number and dollar value of voluntary payments made by defendants. The only recourse the department has for nonpayment is the potential to seize the obligor's permanent fund dividend. Additional factors include the actual amount of the permanent fund dividend, the number of defendants applying for dividends; the number of defendants determined to be eligible for dividends; and other agencies or cases with statutory priority to seize dividends before our seizures are possible.

## Department Budget Summary by BRU

*All dollars in thousands*

	General Funds	FY2001 Federal Funds	Actuals Other Funds	Total Funds	General Funds	FY2002 Federal Funds	Authorized Other Funds	Total Funds	General Funds	FY2003 Federal Funds	Governor Other Funds	Total Funds
<b>Formula</b>												
<b>Expenditures</b>												
None.												
<b>Non-Formula</b>												
<b>Expenditures</b>												
Criminal Division	12,941.6	361.3	1,164.8	14,467.7	13,581.4	480.4	1,639.9	15,701.7	14,308.9	488.4	1,647.2	16,444.5
Civil Division	8,452.5	0.0	16,403.8	24,856.3	7,850.5	0.0	15,752.5	23,603.0	8,104.4	0.0	17,063.2	25,167.6
Statehood Defense	919.8	0.0	6.5	926.3	1,095.4	0.0	0.0	1,095.4	1,116.8	0.0	0.0	1,116.8
Oil and Gas Litigation & Legal	3,311.6	0.0	1,477.0	4,788.6	3,313.8	0.0	1,477.0	4,790.8	3,174.1	0.0	1,477.0	4,651.1
Administration and Support	889.9	0.0	593.7	1,483.6	896.0	0.0	679.8	1,575.8	934.8	0.0	691.7	1,626.5
<b>Totals</b>	<b>26,515.4</b>	<b>361.3</b>	<b>19,645.8</b>	<b>46,522.5</b>	<b>26,737.1</b>	<b>480.4</b>	<b>19,549.2</b>	<b>46,766.7</b>	<b>27,639.0</b>	<b>488.4</b>	<b>20,879.1</b>	<b>49,006.5</b>

### Funding Source Summary

*All dollars in thousands*

<b>Funding Sources</b>	<b>FY2001 Actuals</b>	<b>FY2002 Authorized</b>	<b>FY2003 Governor</b>
1002 Federal Receipts	361.3	480.4	488.4
1003 General Fund Match	120.3	158.6	164.0
1004 General Fund Receipts	25,943.2	26,122.5	27,002.8
1005 General Fund/Program Receipts	387.9	392.2	407.0
1007 Inter-Agency Receipts	16,929.6	16,966.6	18,280.8
1037 General Fund / Mental Health	64.0	63.8	65.2
1053 Investment Loss Trust Fund	118.7		
1055 Inter-agency/Oil & Hazardous Waste	450.0	470.8	481.1
1066 Public School Fund	43.3		
1105 Alaska Permanent Fund Corporation Receipts	1,477.0	1,477.0	1,477.0
1108 Statutory Designated Program Receipts	504.1	507.8	511.0
1134 Fish & Game Duplicated Expenditures	123.1	127.0	129.2
<b>Totals</b>	<b>46,522.5</b>	<b>46,766.7</b>	<b>49,006.5</b>

### Position Summary

<b>Funding Sources</b>	<b>FY2002 Authorized</b>	<b>FY2003 Governor</b>
Permanent Full Time	467	474
Permanent Part Time	20	19
Non Permanent	1	0
<b>Totals</b>	<b>488</b>	<b>493</b>



## Overview of Departmental Budget Changes

### CRIMINAL DIVISION

The 3<sup>rd</sup> Judicial-Anchorage component is requesting an increment to annualize costs and another to fully fund positions that were underfunded in the FY 2002 budget. The annualization increment is for \$168,400 to address full-year costs for new prosecutors in Anchorage to handle the increased drunk driving prosecutions as a result of the 0.08% DWI law and the changes to the "look-back" periods for repeat DWI and felony DWI. The full-funding increment is for \$33,300 for costs for the therapeutic court prosecutors.

An annualization increment is requested in the 4th Judicial component for \$70,900 to provide full-year funding for the therapeutic court prosecutor for Bethel, which was funded for only six months in the FY 2002 budget.

Statutes mandate that the prosecution advise victims of the dates and times of all court proceedings. The prosecution must also notify witnesses of dates and times of proceedings where they must testify. A federal grant of \$25,000 has been received to partially fund the purchase of a telephone software program that will provide automatic notification of court events to victims and witnesses. The Criminal Justice Litigation component requests \$40,000 in general funds to fund the annual operating costs.

### CIVIL DIVISION

\$98,700 in general funds is requested to support the work of the Fairbanks Human Services section in child abuse and juvenile delinquency cases. The section has no paraprofessional support; the heavy caseload of the 4 attorneys in the office and the broad geographical coverage of the office (including Barrow) demand this support. This is a cost-effective way to enable staff attorneys to more effectively manage their caseloads and deadlines.

\$106,500 in general funds is requested for the Collections & Support component to enable the division to fully implement the Victim Restitution project.

\$148,300 in general funds is requested for an attorney in the Anchorage Human Services section. This increment fully funds the therapeutic court's fiscal note for the Civil Division that accompanied the legislation in 2001. The addition of a superior court judge in Anchorage for the therapeutic court has negatively impacted the ability of the attorneys in the Human Services section to cover on-going court proceedings and cases, necessitating the need for another position in the section.

A total of \$210,600 in interagency receipts is requested to fund attorneys in Juneau to handle the increased workloads in the Divisions of Retirement and Benefits and Banking and Securities.

\$120,000 in general funds is requested by the Commercial Component to continue funding outside counsel in Washington D.C. to represent Alaska by responding to telecommunications issues raised by or before the Federal Communications Commission and the Congress where Alaska is impacted.

### DEPARTMENT WIDE

The Department of Law implemented a reclassification of its legal support positions at the end of FY 2001. The study was undertaken primarily because recruitment of legal secretaries was becoming increasingly difficult. The study was completed in the late spring of FY 2001 and approved by the Division of Personnel in June. The reclassification called for higher salary ranges for nearly all positions involved in the study. The timing of the completion and approval of the study did not allow for inclusion in the FY 2002 budget request; however the department did make known the likely effects anticipated by the study to the legislature. Nearly all Criminal and Civil components were affected by the implementation of this study, and as a result, this budget request includes an increment for this purpose in each component. The total amount of funds requested, across all funding sources, is \$345,500.

## Summary of Department Budget Changes by BRU

## From FY2002 Authorized to FY2003 Governor

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Authorized</b>	<b>26,737.1</b>	<b>480.4</b>	<b>19,549.2</b>	<b>46,766.7</b>
<b>Adjustments which will continue current level of service:</b>				
-Criminal Division	286.4	6.3	4.5	297.2
-Civil Division	-290.7	0.0	280.0	-10.7
-Statehood Defense	19.1	0.0	0.0	19.1
-Oil and Gas Litigation & Legal	-150.0	0.0	0.0	-150.0
-Administration and Support	38.8	0.0	11.9	50.7
<b>Proposed budget decreases:</b>				
-Criminal Division	-6.5	0.0	0.0	-6.5
-Civil Division	0.0	0.0	-6.5	-6.5
<b>Proposed budget increases:</b>				
-Criminal Division	447.6	1.7	2.8	452.1
-Civil Division	544.6	0.0	1,037.2	1,581.8
-Statehood Defense	2.3	0.0	0.0	2.3
-Oil and Gas Litigation & Legal	10.3	0.0	0.0	10.3
<b>FY2003 Governor</b>	<b>27,639.0</b>	<b>488.4</b>	<b>20,879.1</b>	<b>49,006.5</b>